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5 **UNITED STATES DISTRICT COURT**
6 **NORTHERN DISTRICT OF CALIFORNIA**
7 **SAN JOSE DIVISION**
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9 JEROME LEMEAL WILLIAMS,

10 Plaintiff,

11 v.

12 WENDY DUFFY, et al.,

13 Defendants.
14

Case No. 18-cv-06921-BLF

**ORDER REVOKING PLAINTIFF'S IN
FORMA PAUPERIS STATUS**

[Re: ECF 25]

15 On February 25, 2019, the United States Court of Appeals for the Ninth Circuit issued a
16 Referral Notice, referring the above-captioned case to the undersigned "for the limited purpose of
17 determining whether in forma pauperis status should continue for [Plaintiff's] appeal or whether
18 the appeal is frivolous or taken in bad faith." *See* ECF 25. For the reasons discussed below, the
19 undersigned concludes that Plaintiff's in forma pauperis status should be REVOKED.

20 The undersigned granted Plaintiff's application to proceed in forma pauperis in the district
21 court based solely on a determination that Plaintiff was unable to afford the court filing fees. *See*
22 ECF 8. The Ninth Circuit's current referral presents a separate question, whether Plaintiff's in
23 forma pauperis status should be revoked on the basis that the appeal is frivolous. "An appeal may
24 not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good
25 faith." 28 U.S.C. § 1915(a)(3). An appeal is taken in good faith for purposes of § 1915 if it
26 presents any issue that is not frivolous. *See Hooker v. Am. Airlines*, 302 F.3d 1091, 1092 (9th Cir.
27 2002) ("If at least one issue or claim is found to be non-frivolous, leave to proceed in forma
28 pauperis on appeal must be granted for the case as a whole.").

1 The undersigned dismissed Plaintiff's first amended complaint without leave to amend on
2 the grounds that Plaintiff had neither articulated a cognizable federal claim nor given any
3 indication that he could do so if granted further leave to amend. *See* ECF 20. On this record, it
4 does not appear that reasonable minds could differ with respect to those grounds for dismissal.
5 Accordingly, the undersigned concludes that Plaintiff's appeal is frivolous. On that basis
6 Plaintiff's in forma pauperis status is REVOKED.

7 **IT IS SO ORDERED.**

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9 Dated: February 27, 2019



BETH LABSON FREEMAN
United States District Judge